

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**STP NUCLEAR OPERATING COMPANY**

**Respondent**

**and**

**Case 16-CA-222349**

**INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS LOCAL UNION 66**

**Charging Party**

**GENERAL COUNSEL'S REPLY TO RESPONDENT'S RESPONSE  
TO NOTICE TO SHOW CAUSE AND OPPOSITION TO  
RESPONDENT'S CROSS-MOTION FOR SUMMARY JUDGMENT**

On July 26, 2018, Respondent filed its Opposition to the General Counsel's Motion for Summary Judgment, Response to the Board's Notice to Show Cause, and Cross-Motion for Summary Judgment. Respondent's filing is an attempt to relitigate Case 16-RC-214839 and does not identify any issue of material fact as to any allegation in the Complaint.

As set forth in the Motion, the Regional Director's Certification of Representative in Case 16-RC-214839 issued on March 22, 2018, and the Board denied Respondent's request for review of the Regional Director's Decision and Direction of Election on May 17, 2018. Accordingly, there remained no material issues of disputed fact regarding the Union's status as the exclusive collective bargaining representative of the employees at issue or of Respondent's obligation to recognize and bargain with the Union. *Concrete Form Walls, Inc.*, 347 NLRB 1299 (2006).

Where, as here, a party refuses to meet and bargain following certification by the Board, it is not the policy of the Board to allow that party to relitigate in an unfair labor practice proceeding those issues which that party has already litigated and that the Board decided in a

prior representation proceeding, absent newly discovered, relevant evidence not available at the time of the litigation in the prior representation proceeding. *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146,162 (1941); *Washington Beef Inc.*, 322 NLRB 398 (1996); §102.67(g) of the Board's Rules and Regulations. Respondent has not asserted, nor can it assert, the existence of any newly discovered relevant evidence on these issues. As such, summary judgment is appropriate.

Since the Board acted appropriately in deciding the representation case issue, the unfair labor practices are properly before it in the instant case as a matter ripe for disposition on summary judgment. Thus, it is respectfully requested that the Board grant General Counsel's Motion for Summary Judgment, deny Respondent's Cross-Motion for Summary Judgment, and make findings of fact and conclusions of law that Respondent's conduct violated § 8(a)(5) and (1) of the Act as alleged in the Complaint.

**DATED** at Fort Worth, Texas, this 2<sup>nd</sup> day of August, 2018.

/s/ Bryan Dooley  
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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing General Counsel's Reply to Respondent's Response to Notice to Show Cause and Opposition to Respondent's Cross-Motion for Summary Judgment has been electronically filed and served this 2<sup>nd</sup> day of August, 2018 upon each of the following via electronic mail:

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